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Bill Text: CA AB2098 | 2021-2022 | Regular Session | Introduced

California Assembly Bill 2098

CA State Legislature page for AB2098

Summary | Sponsors | **Texts** | Votes | Research | Comments | Track

Introduced

Bill Title: Physicians and surgeons: unprofessional conduct.

Spectrum: Partisan Bill (Democrat 6-0)

Status: *(Introduced)* 2022-02-24 - Referred to Com. on B. & P. [AB2098 Detail]

Download: California-2021-AB2098-Introduced.html

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL **NO. 2098**

Introduced by Assembly Member Low
(Coauthors: Assembly Members Aguiar-Curry, Akilah Weber, and Wicks)
(Coauthors: Senators Pan and Wiener)

February 14, 2022

An act to add Section 2270 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2098, as introduced, Low. Physicians and surgeons: unprofessional conduct.

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and the Osteopathic Medical Board of California. Existing law requires the applicable board to take action against any licensed physician and surgeon who is charged with unprofessional conduct, as provided.

This bill would designate the dissemination or promotion of misinformation or disinformation related to the SARS-CoV-2 coronavirus, or "COVID-19," as unprofessional conduct. The bill would require the board to consider specified factors prior to bringing a disciplinary action against a physician and surgeon. The bill would also make findings and declarations in this regard.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The global spread of the SARS-CoV-2 coronavirus, or COVID-19, has claimed the lives of over 5,000,000 people worldwide, including nearly 75,000 Californians.

(b) Data from the federal Centers for Disease Control and Prevention (CDC) shows that unvaccinated individuals are at a risk of dying from COVID-19 that is 11 times greater than those who are fully vaccinated.

(c) The safety and efficacy of COVID-19 vaccines have been confirmed through evaluation by the federal Food and Drug Administration (FDA) and the vaccines continue to undergo intensive safety monitoring by the CDC.

(d) The spread of misinformation and disinformation about COVID-19 vaccines has weakened public confidence and placed lives at serious risk.

(e) Major news outlets have reported that some of the most dangerous propagators of inaccurate information regarding the COVID-19 vaccines are licensed health care professionals.

(f) The Federation of State Medical Boards has released a statement warning that physicians who engage in the dissemination of COVID-19 vaccine misinformation or disinformation risk losing their medical license, and that physicians have a duty to provide their patients with accurate, science-based information.

(g) In House Resolution No. 74 of the 2021–22 Regular Session, the California State Assembly declared health misinformation to be a public health crisis, and urged the State of California to commit to appropriately combating health misinformation and curbing the spread of falsehoods that threaten the health and safety of Californians.

SEC. 2. Section 2270 is added to the Business and Professions Code, to read:

2270. (a) It shall constitute unprofessional conduct for a physician and surgeon to disseminate or promote misinformation or disinformation related to COVID-19, including false or misleading information regarding the nature and risks of the virus, its prevention and treatment; and the development, safety, and effectiveness of COVID-19 vaccines.

(b) The board shall consider the following factors prior to bringing a disciplinary action against a licensee under this section:

(1) Whether the licensee deviated from the applicable standard of care.

(2) Whether the licensee intended to mislead or acted with malicious intent.

(3) Whether the misinformation or disinformation was demonstrated to have resulted in an individual declining opportunities for COVID-19 prevention or treatment that was not justified by the individual's medical history or condition.

(4) Whether the misinformation or disinformation was contradicted by contemporary scientific consensus to an extent where its dissemination constitutes gross negligence by the licensee.

(c) For purposes of this section, the following definitions shall apply:

(1) "Physician and surgeon" means person licensed by the Medical Board of California or the Osteopathic Medical Board of California under Chapter 5 (commencing with Section 2000).

(2) "Board" means the Medical Board of California or the Osteopathic Medical Board of California, as applicable.

(d) Section 2314 shall not apply to this section.

feedback